

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 11, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TIMOTHY E. NATION

Petitioner,

v.

SCOTT SOUZA, ANDREW KELVIN
MILLER and CRAIG SWENSON,

Respondents.

No. 4:22-cv-05004-SMJ

**ORDER DENYING PETITION
WITHOUT PREJUDICE**

By Order filed January 31, 2022, the Court advised Petitioner Timothy E. Nation, a prisoner at the Benton County Jail, of the deficiencies of his *pro se* Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 and directed him to amend within sixty days. ECF No. 10. Petitioner has paid the \$5.00 filing fee. Respondents have not been served.

Petitioner was cautioned that his failure to comply with the Order to Amend Petition would result in the denial of his petition. *Id.* at 7. Petitioner did not comply by the due date of April 1, 2022. Consequently, the Petition is denied without prejudice for failure to exhaust state court remedies. *See Braden v. 30th Jud. Cir.*

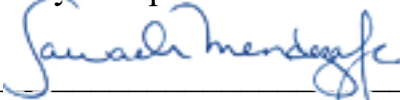
1 *Ct.*, 410 U.S. 484, 489–93 (1973); *Carden v. Montana*, 626 F.2d 82, 83–84 (9th Cir.
2 1980).

3 Accordingly, **IT IS HEREBY ORDERED:**

- 4 **1.** The Petition, ECF No. 1, is **DENIED WITHOUT PREJUDICE** for
5 failure to exhaust state court remedies.
- 6 **2.** The Clerk’s Office is directed to **ENTER JUDGMENT** and **CLOSE**
7 the file.
- 8 **3.** The Court certifies that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal
9 from this decision could not be taken in good faith and there is no basis
10 upon which to issue a certificate of appealability. *See* 28 U.S.C.
11 § 2253(c); Fed. R. App. P. 22(b). A certificate of appealability is
12 therefore **DENIED**.

13 **IT IS SO ORDERED.** The Clerk’s Office is directed to enter this Order and
14 provide copies to *pro se* Petitioner at his last known address.

15 **DATED** this 11th day of April 2022.

16 
17 SALVADOR MENDOZA JR.
United States District Judge